



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

**DECISION**  
Case #: MPA - 176248

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 17, 2016, under Wis. Stat., §49.45(5), to review a decision by the Division of Health Care Access and Accountability (DHCAA) to deny Medical Assistance (MA) authorization for personal care worker (PCW) services, a hearing was held on September 28, 2016, by telephone.

The issue for determination is whether petitioner's records did not support the request for PCW services.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, WI 53703

By: Written submission of [REDACTED], Nurse Consultant  
Division of Health Care Access and Accountability  
PO Box 309  
Madison, WI 53701-0309

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County who receives MA.
2. In June, 2015, the Milwaukee County Disability Services Division assessed petitioner's capabilities with a functional screen. The screen found that petitioner was capable of doing her activities of daily living (ADLs) without hands on assistance. There have been no more recent functional screens.

3. On June 16, 2016, Optimum Home Health Care requested prior authorization to do five hours daily PCW services for petitioner, PA number [REDACTED]. By a letter dated August 8, 2016 the DHCAA denied the request because the functional screen shows no need for PCW assistance.

### DISCUSSION

Personal care services are “medically oriented activities related to assisting a recipient with activities of daily living necessary to maintain the recipient in his or her place of residence in the community.” Wis. Admin. Code §DHS 107.112(1)(a). Covered services include the following:

1. Assistance with bathing;
2. Assistance with getting in and out of bed;
3. Teeth, mouth, denture and hair care;
4. Assistance with mobility and ambulation including use of walker, cane or crutches;
5. Changing the recipient's bed and laundering the bed linens and the recipient's personal clothing;
6. Skin care excluding wound care;
7. Care of eyeglasses and hearing aids;
8. Assistance with dressing and undressing;
9. Toileting, including use and care of bedpan, urinal, commode or toilet;
10. Light cleaning in essential areas of the home used during personal care service activities;
11. Meal preparation, food purchasing and meal serving;
12. Simple transfers including bed to chair or wheelchair and reverse; and
13. Accompanying the recipient to obtain medical diagnosis and treatment.

Wis. Admin. Code, §DHS 107.112(b).

Personal care workers can spend no more than one-third of their time performing housekeeping activities. Like all medical assistance services, PCW services must be medically necessary and cost effective. Wis. Admin. Code, §DHS 107.02(3)(e)1 and 3.

The DHCAA denied the request because petitioner’s most recent functional screen reports no need for hands on assistance to do ADLs. Her most recent medical note from December, 2015 says that she is alert and oriented, under no acute distress, and that she walked with a normal gait. If there has been a decline in petitioner’s condition it would be expected that a new functional screen would be ordered.

Petitioner provided a copy of a letter from her doctor reporting that she can become short of breath upon exertion. Because I could not tell how that would impact petitioner’s need for services I forwarded the letter to Nurse [REDACTED] for review. She responded that the letter does not provide a new diagnosis or that her condition has worsened since the 2015 functional screen. She recommended a new functional screen be done.

I affirm the denial of the requested services. As noted, it is evident that petitioner has a serious medical condition, but the medical evidence does not show a need for five hours per day of hands on personal care. Although she easily becomes short of breath that does not necessarily translate to a need for ongoing hands on assistance; it could mean simply that she needs to take her time. Petitioner did testify that her condition has worsened since 2015, and thus it would be a good idea to request a new functional screen as her eligibility for assistance programs might have changed as well.

### CONCLUSIONS OF LAW

The DHCAA correctly denied PCW services because petitioner's medical history does not support a need for daily assistance with ADLs.

**THEREFORE, it is**

### ORDERED

That the petition for review is hereby dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 6th day of October, 2016

\s \_\_\_\_\_  
Brian C. Schneider  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on October 6, 2016.

Division of Health Care Access and Accountability